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Michael J. Mendes and Steven M. Neil

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JORGE SALHUANA, Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

V.

17 DIAMOND FOODS, Inc., MICHAEL J.
MENDES, and STEVEN M. NEIL,

Defendants.

Case No. CV 11-05386 WHA

**STIPULATION REGARDING
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED AND [PROPOSED] ORDER
RELATING CASES**

(Civil L.R. 3-12)

Judge: The Honorable William H. Alsup

Date Action Filed: November 7, 2011

1 WHEREAS, on December 9, 2011, defendants filed an administrative motion pursuant to
 2 Civil Local Rule 3-12(b) to deem the following alleged securities class actions and purported
 3 derivative actions related:

4 *Salhuana v. Diamond Foods, Inc. et al.*, Case No. CV-11-05386 WHA (“*Salhuana*”);
 5 *Mitchem v. Diamond Foods, Inc. et al.*, Case No. CV-11-05399 RS (“*Mitchem*”);
 6 *Woodward v. Diamond Foods, Inc. et al.*, Case No. CV-11-05409 LHK (“*Woodward*”);
 7 *Rall v. Diamond Foods, Inc. et al.*, Case No. CV-11-05457 PJH (“*Rall*”);
 8 *Simon v. Diamond Foods, Inc. et al.*, Case No. CV-11-05479 PJH (“*Simon*”);
 9 *MacFarland v. Diamond Foods, Inc. et al.*, Case No. CV-11-05615 EJD (“*MacFarland*”);
 10 *Bd. of Trustees of City of Hialeah Emp. Ret. Sys. v. Mendes et al.*, Case No. CV 11-05692
 11 LB (“*Hialeah*”); and

12 WHEREAS, subsequently, on December 19, 2011, a second purported federal derivative
 13 complaint was filed in this Court, *Lucia v. Baer et al.*, Case No. CV 11-06417 JSC (“*Lucia*”);

14 WHEREAS, by Order of December 21, 2011, this Court deemed the prior alleged
 15 securities class actions (*i.e.*, *Salhuana*, *Mitchem*, *Woodward*, *Rall*, *Simon* and *MacFarland*) and
 16 derivative action (*Hialeah*) to be related, and all matters are now before the Honorable William
 17 H. Alsup;

18 WHEREAS the *Lucia* action likewise should be related to *Salhuana*, *Mitchem*,
 19 *Woodward*, *Rall*, *Simon*, *MacFarland* and *Hialeah* because (1) it involves some of the same
 20 parties, property, transactions and events; and (2) it appears likely that there will be an unduly
 21 burdensome duplication of labor and expense or conflicting results if the cases are conducted
 22 before different Judges:

23 IT IS ACCORDINGLY STIPULATED, pursuant to Civil Local Rules 3-12, 7-11 and 7-
 24 12, by and between undersigned counsel, that *Lucia* should be related to *Salhuana*, the first filed
 25 action, and to the related *Mitchem*, *Woodward*, *Rall*, *Simon*, *MacFarland* and *Hialeah* actions.

26 ///

27 ///

28 ///

1 Dated: January 5, 2012

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8 Dated: January 5, 2012

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15 Dated: January 5, 2012

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9 Pursuant to General Order No. 45 Section X(B), all signatories concur in filing this stipulation.

10 Dated: January 6, 2012

By: /s/ Jennifer C. Bretan
Jennifer C. Bretan

11 * * *

12 [PROPOSED] ORDER

13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14 Dated: _____

15 Hon. William Alsup
United States District Court Judge

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO